



09-7-09

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PATENT

DOCKET NO.: 3DP-0544

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Barry A. Springer, Michael W. Pantoliano Confirmation No.: 8523

and Celia M. Sharp

Application No.: 10/785,436

Group Art Unit: Not Yet Assigned

Filed: February 23, 2004

Examiner: Not Yet Assigned

For: ANALOGS OF HUMAN BASIC FIBROBLAST GROWTH FACTOR
MUTATED AT ONE OR MORE OF THE POSITIONS GLUTAMATE 89,
ASPARATE 101 OR LEUCINE 137

EXPRESS MAIL LABEL NO: EL997979755US
DATE OF DEPOSIT: September 1, 2004

EL997979755US

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION TO ESTABLISH PRIOR RECEIPT IN THE P.T.O. OF ITEM(S)
CONSIDERED AS OMITTED BY THE P.T.O. RESPONSE TO**
 "NOTICE OF OMITTED ITEMS"
 "NOTICE OF INCOMPLETE APPLICATION"

NONPROVISIONAL APPLICATION

1. This is in response to the

"NOTICE OF OMITTED ITEMS"
 "NOTICE OF INCOMPLETE APPLICATION"

mailed for this application on August 13, 2004.

A copy of the
 "NOTICE OF OMITTED ITEMS"
 "NOTICE OF INCOMPLETE APPLICATION"

is enclosed.

09/07/2004 WABDELR1 000000020 10785436
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2. Applicant submits the following:

- A. A true and correct copy of the preliminary amendment pursuant to 37 CFR §1.115 filed with the application on February 23, 2004, wherein the Cross-Reference To Related Applications section has been amended to recite "This is a continuation of U.S. Application Serial No. 09/722,495, filed November 28, 2000, which is a continuation of U.S. Application Serial No. 09/220,077, filed December 23, 1998, which claims the benefit of Provisional Application No. 60/068,667, filed on December 23, 1997, each of which are incorporated by reference in their entirety.;"
- B. A true and correct copy of U.S. Application No. 09/722,495, filed November 28, 2000, including specification on pages 1-34, 47 claims on pages 35-39, abstract on page 40 and 2 sheets of drawings consisting of Figures 1 and 2;
- C. Courtesy copy of the Second Preliminary Amendment Pursuant to 37 CFR §1.115 requesting insertion of the Sequence Listing into the specification;
- D. Courtesy copy of the Statement to Support Filing and Submission in Accordance with 37 CFR §§1.821 Through 1.825;
- E. Courtesy copy of the paper copy of the Sequence Listing; and
- F. A copy of the executed Declaration Power of Attorney filed in parent application 09/722,495, also submitted along with the above-identified application.
(Note, no new matter has been added to this application. Therefore, Applicant states that a newly executed Declaration and Power of Attorney is not needed at this time.)

3. In accordance with the requirements of the Notice of June 5, 1996, 61 Fed. Reg. 30,041-30,046, (see MPEP, § 601.01(d), 7th Edition) applicant hereby:

- A. Petitions under 37 § 1.53(e) for a review of the determination that the items in issue were omitted; and
- B. Submits the petition fee under 37 § 1.17(i).

4. Fee Payment

A check in the amount of \$130.00 is attached. Please charge any deficiency or credit any overpayment to Deposit Account No. 23-3050.

Please charge Deposit Account No. 23-3050 the amount of \$130.00. This sheet is attached in duplicate.

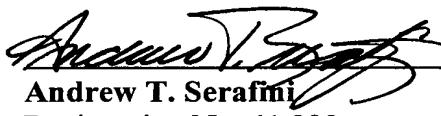
The Commission is hereby authorized to charge payment of the above fees associated with this communication or credit any overpayment to Deposit Account No. 23-3050. This sheet is attached in duplicate.

A duplicate of this paper is attached.

5. Request for Refund For Petition Fee Under 37 CFR § 1.53(e)

It is respectfully requested that, upon grant of the petition under 37 § 1.53(e), the petition fee be refunded by crediting Deposit Account No. 23-3050.

Date: September 1, 2004



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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/785,436	02/23/2004	Barry A. Springer	3DP-0544

CONFIRMATION NO. 8523

23377
 WOODCOCK WASHBURN LLP
 ONE LIBERTY PLACE, 46TH FLOOR
 1650 MARKET STREET
 PHILADELPHIA, PA 19103

FORMALITIES LETTER



OC000000013526161

Date Mailed: 08/13/2004

NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below and a newly executed oath or declaration covering the items must be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)). Replies should be mailed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$130.00 petition fee (37 CFR 1.17(h)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

- The application was deposited without drawings. 35 U.S.C. 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented." *Applicant should reconsider whether the drawings are necessary under 35 U.S.C. 113 (first sentence).*
- This application clearly fails to comply with the requirements of 37 CFR. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- For Rules Interpretation, call (703) 308-4216
- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

Replies should be mailed to: Mail Stop Missing Parts
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P.O. Box 1450
Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*



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Initial Patent Examination Division (703) 308-1202
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